

190829pourghannadP Plea

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA

4 v.

13 Cr. 507 VB

5 BEHZAD POURGHANNAD,

6 Defendant.

7 -----x
8 United States Courthouse
9 White Plains, N.Y.
10 August 29, 2019
11 11:42 a.m.

12 Before:

13 THE HONORABLE PAUL E. DAVISON,

14 Magistrate Judge

15 APPEARANCES

16 GEOFFREY S. BERMAN

17 United States Attorney for the
18 Southern District of New York

19 LINDSEY KEENAN

20 Assistant United States Attorney

21 JAMES E. NEUMAN

22 Attorney for Defendant Behzad Pourghannad

23 ALSO PRESENT: MAMAD SHIRAZI, Farsi Interpreter

24 DAVID BALINT, FBI, Special Agent

25 CHRISTOPHER KRAICH, FBI, Special Agent

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1 (In open court)

2 THE DEPUTY CLERK: The United States v. Behzad
3 Pourghannad.

4 Would the government please stand and note your
5 appearance for the record.

6 MS. KEENAN: Good morning, your Honor. Lindsey
7 Keenan for the government. I'm joined at counsel table by
8 Special Agents David Balint and Christopher Kraich from the
9 FBI.

10 THE COURT: Good morning.

11 THE DEPUTY CLERK: Defense counsel, please note your
12 appearance.

13 MR. NEUMAN: Good morning, Judge. James Neuman for
14 Behzad Pourghannad.

15 THE COURT: All right. Good morning, Mr. Neuman.

16 THE DEPUTY CLERK: Would the interpreter please stand
17 and state your name for the record.

18 THE INTERPRETER: Sure. My name is Mamad Shirazi,
19 Farsi interpreter.

20 THE COURT: Thank you for your assistance here this
21 morning, sir.

22 THE INTERPRETER: Thank you.

23 THE COURT: All right. My understanding is --
24 Mr. Neuman, can you help me out with the pronunciation of your
25 client's name?

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1 MR. NEUMAN: I think it's *Porg-a-näd*. I believe
2 that's the correct pronunciation.

3 THE COURT: Pourghannad.

4 MR. NEUMAN: I believe that's the correct
5 pronunciation.

6 THE COURT: Does that sound right, sir?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Okay. All right. My understanding is
9 Mr. Pourghannad is prepared to enter a guilty plea to Count One
10 of the indictment in satisfaction of the indictment and
11 pursuant to a plea agreement, which is dated July 31st, 2019.
12 It is my further understanding that Judge Briccetti has
13 referred this proceeding to me, subject to the consent of the
14 parties.

15 Is that all correct, Ms. Keenan?

16 MS. KEENAN: Yes, your Honor.

17 THE COURT: All right. Then we'll proceed on that
18 basis.

19 Mr. Pourghannad, could you stand.

20 Mr. Pourghannad, first of all, this is not a trial.
21 I'm told you have decided to enter a guilty plea in this case,
22 so we're here to make sure that you're aware of all of your
23 rights in connection with that plea and to make certain that
24 any waiver of those rights is knowing and voluntary.

25 In addition, the Court must make certain that there

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1 is a factual basis for your plea of guilty. And it's important
2 for you to understand that the Court will not accept your
3 guilty plea unless the Court is satisfied that you are in fact
4 guilty.

5 Do you understand?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Mr. Pourghannad, if at any point you
8 don't hear me or understand what I say, I want you to interrupt
9 me. I will repeat myself. I'll try to explain what I've said.
10 I'll give you an opportunity to consult with Mr. Neuman, your
11 attorney, or to confer with the interpreter if that would be
12 helpful, but it's very important that you hear and understand
13 everything that goes on here today.

14 Will you do that? Will you interrupt me if you don't
15 understand something?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Good. Mr. Pourghannad, you have the
18 absolute right to be represented by a lawyer at this and every
19 stage of the proceedings against you, and you have the right to
20 consult your lawyer before you answer any questions.

21 Do you understand?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: I recommend that you take advantage of
24 that right as necessary and consult with Mr. Neuman if you feel
25 the need. We're not in any hurry here this morning.

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1 Do you understand?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Mr. Neuman, you are appointed?

4 MR. NEUMAN: Yes, your Honor.

5 THE COURT: Mr. Pourghannad, if you were to become
6 dissatisfied with Mr. Neuman's services, you would be entitled
7 to apply to the Court for a new attorney to represent you. And
8 if the Court was still satisfied that you could not afford to
9 hire a lawyer and was persuaded that there was an appropriate
10 reason to relieve Mr. Neuman, under those circumstances, a new
11 lawyer would be appointed to represent you without cost to you.

12 Do you understand?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: All right.

15 Mr. Cangelosi, would you place Mr. Pourghannad under
16 oath or affirmation.

17 THE DEPUTY CLERK: Please raise your right hand.

18 (Defendant Behzad Pourghannad sworn)

19 THE DEFENDANT: I do swear.

20 THE COURT: Mr. Pourghannad, you're now under oath;
21 that means if you knowingly made a false statement during this
22 proceeding, you could be prosecuted for perjury, you could face
23 up to five years in prison and a \$250,000 fine if convicted of
24 that.

25 Do you understand?

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1 THE DEFENDANT: Yes. Yes, your Honor.

2 THE COURT: For the record, sir, what's your full
3 name?

4 THE DEFENDANT: Behzad Pourghannad.

5 THE COURT: How old are you, sir?

6 THE DEFENDANT: 66 years old.

7 THE COURT: Do you read, write, speak and understand
8 the Farsi language?

9 THE DEFENDANT: Yes, Farsi language; yes.

10 THE COURT: And have you been able to understand me
11 clearly with the assistance of Mr. Shirazi, the Farsi
12 interpreter?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Good.

15 How far did you go in school, sir?

16 THE DEFENDANT: I have a Bachelor's degree in
17 Mechanical Engineering.

18 THE COURT: Have you ever been hospitalized or
19 treated for narcotic or alcohol addiction?

20 THE DEFENDANT: No, your Honor.

21 THE COURT: Within the past 24 hours, have you used
22 or taken any drugs, marijuana, alcohol, medication or pills of
23 any kind?

24 THE DEFENDANT: No, your Honor.

25 THE COURT: Are you clear in your head as you stand

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1 here this morning?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Very well. Then we will proceed with
4 what is referred to as a plea allocution.

5 I want you to understand that you have the absolute
6 right to have this plea allocution conducted before a United
7 States District Judge, here Judge Vincent Briccetti to whom
8 this case has been assigned. It is Judge Briccetti, a district
9 judge, who will impose sentence in this case.

10 I am a United States Magistrate Judge. If you
11 consent and agree, I will conduct the plea allocution here this
12 morning, and I will then make a report to Judge Briccetti in
13 which I will recommend whether or not Judge Briccetti should
14 accept your plea of guilty. I will make that recommendation
15 based on information that comes out during today's proceeding.

16 Do you understand?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Do you understand that you have an
19 absolute right to have this plea allocution conducted before a
20 United States District Judge?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Do you consent and agree that I should
23 conduct the plea allocution here today?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: All right.

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1 Mr. Cangelosi, would you have Mr. Pourghannad
2 identify his signature on the written consent form.

3 THE DEPUTY CLERK: Mr. Pourghannad, I show you this
4 Consent to Proceed Before a United States Magistrate Judge on a
5 Felony Plea Allocution.

6 THE DEFENDANT: Yes.

7 THE DEPUTY CLERK: Is that your signature affixed to
8 the consent form?

9 THE DEFENDANT: Yes.

10 THE DEPUTY CLERK: Before signing the consent form,
11 did the interpreter read this to you?

12 THE DEFENDANT: Yes.

13 THE DEPUTY CLERK: And with the assistance of the
14 interpreter, did you discuss this with your attorney?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Mr. Pourghannad, did anyone threaten you
17 or coerce you or promise you anything to get you to sign this
18 consent form?

19 THE DEFENDANT: No, your Honor.

20 THE COURT: Did you sign the form freely and
21 voluntarily?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Counsel, do either of you know of any
24 reason why this waiver and Consent to Proceed with a Plea
25 Allocution before a United States Magistrate Judge should not

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1 be accepted?

2 Ms. Keenan.

3 MS. KEENAN: No, your Honor.

4 THE COURT: Mr. Neuman.

5 MR. NEUMAN: No, your Honor.

6 THE COURT: Very well.

7 I find that Behzad Pourghannad is fully competent and
8 capable of waiving his right to appear before a United States
9 District Judge to enter his plea of guilty. I therefore accept
10 the consent form, which has been signed and will be placed in
11 the court record as Court Exhibit 1.

12 Mr. Pourghannad, do you understand that your right to
13 be represented by a lawyer continues through every stage of the
14 proceedings, including trial and appeal, and that you have this
15 right whether or not you choose to plead guilty to this
16 offense?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Have you had an adequate opportunity to
19 consult with Mr. Neuman about your case and especially about
20 your decision to plead guilty?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Are you satisfied with the services which
23 Mr. Neuman has provided to you in this case?

24 THE DEFENDANT: Completely.

25 THE COURT: Have you told Mr. Neuman everything you

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1 know about the case?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: All right.

4 Before the Court is a plea letter I alluded to
5 earlier. It's dated July 31, 2019. It's addressed to
6 Mr. Neuman in reference to this case, and it appears to have
7 been countersigned today by Mr. Pourghannad and Mr. Neuman
8 today, meaning August 29, 2019.

9 This is the operative plea agreement, Ms. Keenan?

10 MS. KEENAN: Yes, your Honor.

11 THE COURT: The original plea agreement will be
12 marked as Court Exhibit 2 and will remain in the custody of
13 government counsel at the conclusion of this proceeding.

14 Mr. Cangelosi, please have Mr. Pourghannad identify
15 his signature on the last page of the plea agreement.

16 THE DEPUTY CLERK: Mr. Pourghannad, I show you this
17 plea agreement. Is that your signature affixed to this plea
18 agreement dated today, August 29, 2019?

19 THE DEFENDANT: Yes. That's true.

20 THE DEPUTY CLERK: Before signing this plea
21 agreement, and with the assistance of the interpreter, did the
22 interpreter read this to you?

23 THE DEFENDANT: Yes, sir.

24 THE DEPUTY CLERK: And with the assistance of the
25 interpreter, did you discuss it with your attorney?

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1 THE DEFENDANT: Yes, sir.

2 THE COURT: Mr. Pourghannad, was this complete
3 agreement read to you before you signed it?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Mr. Neuman, did you review each and every
6 part of this plea agreement with your client?

7 MR. NEUMAN: I did, your Honor.

8 THE COURT: Mr. Pourghannad, are you satisfied that
9 you understand this entire plea agreement?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Do you have any questions for Mr. Neuman
12 or for me about what the plea agreement says?

13 THE DEFENDANT: No, your Honor.

14 THE COURT: Does this plea agreement contain the
15 complete understanding between you and the government in
16 connection with this case?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Do you understand that anything which is
19 not set forth in the written plea agreement or placed on the
20 record at this time, is not going to be binding on the outcome
21 of your case?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Ms. Keenan, is there anything beyond the
24 written plea agreement the Court should be aware of?

25 MS. KEENAN: No, your Honor.

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1 THE COURT: Mr. Neuman, any other agreements the
2 Court should know about?

3 MR. NEUMAN: No, your Honor.

4 THE COURT: Mr. Pourghannad, did you sign the plea
5 agreement freely and voluntarily?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Did anyone force you or coerce you or
8 threaten you or promise you anything other than what is set
9 forth in the written plea agreement in order to get you to sign
10 the plea agreement?

11 THE DEFENDANT: No, your Honor.

12 THE COURT: All right, then. Mr. Pourghannad, the
13 law requires me to advise you of the maximum possible
14 penalties, the worst-case scenario to which you expose yourself
15 by pleading guilty to this count.

16 First of all, Count One of the indictment charges you
17 with conspiracy or illegal agreement to violate the
18 International Emergency Economic Powers Act by conspiring to
19 export carbon fiber from the United States to Iran, in
20 violation of applicable export regulations.

21 Do you understand that charge?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Mr. Pourghannad, if you are convicted of
24 that charge, whether it's by pleading guilty or by being
25 convicted by a jury after trial, you face a maximum term of

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1 imprisonment of 20 years; you face a maximum term of supervised
2 release of three years; you face a maximum fine of \$1 million;
3 and you also face a \$100 special assessment, which is
4 mandatory.

5 With regard to any term of supervised release, sir, I
6 must caution you that if you are sentenced to a term of
7 imprisonment, even if you are sentenced to the maximum term of
8 imprisonment, and if you are also sentenced to a term of
9 supervised release, and if you then violate the conditions of
10 your supervised release, under those circumstances, you could
11 be sentenced to an additional term of imprisonment for
12 violating your supervised release. In this case, the
13 additional prison term would be up to two years.

14 In addition, if you violate the conditions of your
15 supervised release, you would not receive any credit for any
16 time you already served in prison or for time you served on
17 supervised release.

18 What that means here, Mr. Pourghannad, is if you are
19 sentenced to a term of imprisonment, even if you get the
20 maximum sentence, which is 20 years and you serve all 20, and
21 you then go out on supervised release and you violate
22 supervised release, under those circumstances, the Court could
23 send you back to prison without a jury trial, even though you
24 had already served the maximum.

25 Do you understand?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Ms. Keenan, does forfeiture or
3 restitution apply to this offense?

4 MS. KEENAN: No, your Honor.

5 THE COURT: Thank you.

6 Mr. Pourghannad, do you understand that these are all
7 possible sentences that could be imposed following a plea of
8 guilty in this case?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Are you a United States citizen?

11 THE DEFENDANT: No, your Honor.

12 THE COURT: Can counsel assure me that consular
13 notification was addressed in this case?

14 MS. KEENAN: It's been made, your Honor.

15 THE COURT: Thank you.

16 Because you are not a United States citizen, a
17 finding that you are guilty of a felony, such as this offense,
18 may have a negative impact upon your immigration status and
19 upon any application that you may have made, or that you may
20 make in the future, for permission to enter or remain in the
21 United States or to become a United States citizen.

22 You may also be exposed to an Order of Deportation as
23 a result of this guilty plea. And, under certain
24 circumstances, deportation may be mandatory.

25 Do you understand that?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Have you discussed these immigration
3 ramifications with Mr. Neuman?

4 MR. NEUMAN: Yes, your Honor.

5 THE COURT: Do you understand you are pleading guilty
6 here to a felony offense and that a felony conviction may
7 deprive you of certain valuable civil rights, which may include
8 the right to possess any type of firearm, including rifles and
9 shotguns, the right to be considered for certain types of
10 employment or to be bonded, or to serve in the United States
11 military, and the right to possess or obtain certain
12 government-issued licenses, including licenses that may be
13 required in certain professions and occupations.

14 Do you understand that?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Mr. Pourghannad, do you understand these
17 are all possible legal consequences of a guilty plea in this
18 case?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Mr. Pourghannad, do you understand that
21 the United States Sentencing Commission has published
22 guidelines for judges to follow in determining the appropriate
23 sentence to impose in a criminal case?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Do you also understand that the

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1 guidelines are not mandatory but must be considered by the
2 Court, along with other factors and other information, when the
3 Court determines the appropriate sentence to impose?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Have you and Mr. Neuman talked about how
6 the Sentencing Guidelines would be calculated in your case?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Now the plea agreement that we talked
9 about a couple of minutes ago includes a stipulated guideline
10 range of between 46 and 57 months of imprisonment. The
11 agreement also indicates that, subject to your ability to pay,
12 the fine range in this case is between \$20,000 and \$1 million.

13 You're aware of those ranges?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Do you understand that these ranges
16 represent nothing more than an understanding between you and
17 your lawyer and government counsel, and that these ranges are
18 not binding on Judge Briccetti when he imposes sentence in this
19 case?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Do you understand that Judge Briccetti
22 will consider the guidelines but will impose a sentence in
23 accordance with the applicable statutes, which, in this case
24 means the only thing you know for sure is that the prison term
25 will not exceed 20 years?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Do you understand that Judge Briccetti
3 will not be able to determine the appropriate sentence to
4 impose until after a presentence report has been prepared and
5 after you and your attorney, as well as government counsel,
6 have had an opportunity to challenge the facts set forth in
7 that presentence report, as well as the calculation of the
8 guideline range and any sentence recommendation contained in
9 that report?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Do you understand that if there are
12 objections to the presentence report, Judge Briccetti will rule
13 on those objections, and if necessary, Judge Briccetti will
14 conduct a hearing to determine what information is pertinent to
15 the calculation of your sentence?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Is there an appeal waiver in this
18 agreement, Ms. Keenan?

19 MS. KEENAN: Yes, your Honor.

20 THE COURT: Can I ask you to summarize it for the
21 record.

22 MS. KEENAN: Sure. The defendant agrees, pursuant to
23 the plea agreement, not to file a direct appeal, nor bring any
24 collateral challenge of any sentence within or below the
25 stipulated guidelines range of 46 to 57 months' imprisonment.

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1 The government will not appeal any sentence within or above the
2 stipulated guidelines range. This provision is binding, even
3 if the district court uses a different guidelines analysis than
4 that stipulated to in the plea agreement.

5 THE COURT: Thank you.

6 Mr. Pourghannad, do you understand that one effect of
7 this plea agreement that you've entered into with the
8 government is that you are giving up rights you might otherwise
9 have had to appeal or otherwise challenge any sentence which
10 does not exceed 57 months' imprisonment?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Do you also understand you are agreeing
13 not to appeal or otherwise challenge any term of supervised
14 release that does not exceed three years and any fine that does
15 not exceed \$1 million?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Mr. Neuman, have you reviewed with your
18 client the first full paragraph on page 4 of the agreement,
19 commonly referred to as the *Brady* waiver paragraph?

20 MR. NEUMAN: Yes, your Honor.

21 THE COURT: Are you satisfied that Mr. Pourghannad
22 understands the consequences of that particular paragraph?

23 MR. NEUMAN: I am.

24 THE COURT: Mr. Pourghannad, do you understand that
25 if you disagree with or are disappointed by Judge Briccetti's

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1 sentencing decision, that will not give you a basis to withdraw
2 your plea of guilty?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Do you also understand that parole has
5 been abolished, and if you are sentenced to a term of
6 imprisonment, you will not be eligible for early release on
7 parole?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Do you understand you do not have to
10 plead guilty, and you have an absolute right to plead not
11 guilty and to have this case go to trial by judge or by jury?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Do you understand that if you choose to
14 plead not guilty, you are entitled to have a speedy and public
15 trial of your case?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Do you understand that at any such trial,
18 you would be entitled to the presumption of innocence and that
19 the presumption would remain with you until the government
20 proved each and every element of the crime charged beyond a
21 reasonable doubt, to the satisfaction of the judge if it's a
22 judge trial, or to the unanimous satisfaction of the jury if
23 it's a jury trial?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Mr. Pourghannad, at any such trial, you

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1 would have the right, with the assistance of your lawyer, to
2 confront and cross-examine the witnesses against you. You
3 would have the right to call witnesses to testify on your
4 behalf and to have subpoenas issued to compel witnesses to come
5 and testify.

6 You would also have the right to testify at your
7 trial, but you could not be forced to testify. And if you
8 decided not to testify, your decision to remain silent could
9 not be held against you in any way.

10 At your trial, you would also have the right I
11 described earlier to the assistance of a lawyer and to have a
12 lawyer appointed to represent you without fee if you could not
13 afford counsel.

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Mr. Pourghannad, do you understand that
16 if you plead guilty to this charge, you will give up your right
17 to a trial, and except for the right to a lawyer, you will also
18 give up all the other rights which I've explained to you here?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Mr. Pourghannad, have you clearly heard
21 and understood everything I've said to you?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do you have any questions for me or for
24 Mr. Neuman about anything I've said or anything I've asked you?

25 THE DEFENDANT: No, your Honor.

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1 THE COURT: All right, then. Mr. Pourghannad, you
2 can have a seat for a moment while I address government
3 counsel.

4 Ms. Keenan, can you outline for me the elements of
5 the offense, and then tell me what facts the government would
6 be prepared to prove at trial to establish those elements,
7 please.

8 Go slow because this is an unfamiliar offense.

9 MS. KEENAN: Before I do, I might have missed it.
10 I'm not sure if the defendant was allocuted that he read and
11 had translated for him the entire indictment. I know he said
12 he understood and had translated Count One.

13 THE COURT: Well, that should have been done when he
14 was arraigned on the indictment. I didn't ask him that
15 question, but I'll ask him now.

16 Mr. Pourghannad, have you and Mr. Neuman received a
17 copy of the indictment that's before the Court and gone over
18 the charges together?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Was that entire indictment read to you?

21 THE DEFENDANT: Yes, your Honor.

22 MS. KEENAN: Thank you, your Honor.

23 THE COURT: All right. Back to you, Ms. Keenan.

24 MS. KEENAN: This crime has two elements: First,
25 that the defendant, and at least one other person, entered an

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1 unlawful agreement to violate the International Emergency
2 Economic Powers Act; and second, that the defendant
3 intentionally and knowingly joined the conspiracy.

4 The International Emergency Economic Powers Act,
5 which is the object of the conspiracy, has four elements:
6 First, that the defendant exported, attempted to export, or
7 caused the export of items from the United States; second, that
8 the items the defendant exported, attempted to export, or
9 caused to be exported were controlled for export and required
10 an export license for the destination country; third, that the
11 defendant failed to obtain a license or other authorization
12 from the Department of Commerce prior to exporting the items;
13 and fourth, that the defendant did so knowingly and willfully.

14 The government would also have to prove by a
15 preponderance of the evidence that venue in the Southern
16 District of New York is proper.

17 At trial, the government would prove beyond a
18 reasonable doubt that during the period charged in the
19 indictment, the defendant participated in a conspiracy to cause
20 the export of carbon fiber from the United States to Iran.

21 The government's evidence would include, among other
22 things, hundreds of recorded telephone calls, e-mails and chats
23 in which the defendant and two co-conspirators brokered the
24 purchase of carbon fiber from the United States supplier and
25 arranged for the surreptitious export of that carbon fiber to

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1 third countries, with plans to transship it to Iran.

2 The government's evidence would also include
3 consensually-monitored communications, including discussions
4 between the defendant and a cooperating witness, regarding,
5 among other things, the fact that an export license is required
6 to ship carbon fiber to Iran from the United States; the fact
7 that the export of carbon fiber to Iran violates United States
8 sanctions; and the need to take steps to disguise the contents
9 of the carbon fiber shipments in order to evade United States
10 export controls.

11 The government's evidence would also include Commerce
12 Department records showing that the carbon fiber the defendant
13 sought to export was controlled for export and required an
14 export license to send to Iran.

15 The government's evidence as to venue would include,
16 among other things, consensually-monitored communications
17 demonstrating that the defendant purchased carbon fiber from a
18 supplier in Orange County, New York, and agreed for carbon
19 fiber to be exported from Manhattan for ultimate delivery to
20 Iran.

21 THE COURT: Thank you.

22 Mr. Pourghannad, did you hear what the assistant U.S.
23 attorney just said?

24 THE DEFENDANT: Yes, I did hear.

25 THE COURT: At this time, how do you wish to plead to

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1 Count One of the indictment charging you with conspiracy to
2 violate the International Emergency Economic Powers Act?

3 THE DEFENDANT: Between the year -- your Honor, from
4 the year 2009 --

5 MR. NEUMAN: Excuse me. I'm just going to interrupt
6 for a second.

7 THE COURT: Sure.

8 MR. NEUMAN: I think my client is assuming he needs
9 to --

10 THE COURT: He will allocute, but first, I need to
11 know if he's pleading guilty.

12 MR. NEUMAN: And I'll just add, you'll make a fuller
13 statement in a moment. The judge is just asking now whether
14 the plea will be guilty or not guilty. That's all he's asking
15 you right now.

16 THE DEFENDANT: Yes, I'm guilty.

17 THE COURT: Has anyone threatened you or coerced you
18 or pressured you improperly in order to get you to plead guilty
19 to this charge?

20 THE DEFENDANT: No, your Honor.

21 THE COURT: Has anyone made any promises to you,
22 other than what is set forth in the written plea agreement, in
23 order to persuade you to plead guilty?

24 THE DEFENDANT: No, your Honor.

25 THE COURT: Has anyone made any specific promise to

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1 you about what the sentence of the Court will be?

2 THE DEFENDANT: No, your Honor.

3 THE COURT: All right, then. Now, Mr. Pourghannad,
4 please tell me in your own words what you did to make you
5 guilty of this offense.

6 MR. NEUMAN: I'm going to ask my client to read
7 slowly.

8 THE DEFENDANT: I agreed with others, your Honor,
9 between the years 2008 and 2013 to violate the International
10 Economic Emergency [sic] Act of the United States. I tried to
11 help others to export carbon fiber from the United States to
12 Iran. I wrote the contract and e-mailed it to the supplier,
13 and also, after that, subsequently I sent the bank guarantee as
14 a surety for the contract.

15 When I did these acts, I did not have the license to
16 export carbon fiber from the United States to Iran. And at
17 that time, I knew that this act is illegal in the United
18 States.

19 THE COURT: All right. Mr. Pourghannad, did you
20 complete --

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: All right. Let me follow up with a
23 couple of questions. First of all, you appeared to read that
24 from a piece of paper.

25 Is everything you just told me true?

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1 THE DEFENDANT: Yes, your Honor. Completely.

2 THE COURT: At the time that you engaged in this
3 conduct, did you understand that the material you were
4 ordering, the carbon fiber, was controlled by United States'
5 export regulations and required an export license?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: And you knew that you did not have such a
8 license; is that correct?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: And therefore, you knew that the
11 exportation of this material from the United States, and
12 importation into Iran, was in violation of United States law?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And is it correct that the supplier that
15 you were dealing with is located in Orange County, New York?

16 THE DEFENDANT: I didn't know about his location.

17 THE COURT: Mr. Neuman, can we have a concession on
18 that?

19 MR. NEUMAN: Yes. We waive the venue.

20 THE COURT: All right.

21 Just to dot the "i," Mr. Pourghannad, did you know
22 that the material was to be shipped from New York City?

23 If you don't know, tell me you don't know.

24 THE DEFENDANT: No, no. I did not know.

25 THE COURT: All right. Did you commit these acts

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1 knowingly and willfully?

2 THE DEFENDANT: If I am permitted to say just one
3 word, your Honor, and then the answers to these questions will
4 be clear: Everything I did, I did from Iran. I was in Iran at
5 the time. I did nothing --

6 THE COURT: You were physically present in Iran?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Okay. I understand.

9 THE DEFENDANT: And I knew that exporting this
10 material from the United States to Iran is illegal; and
11 because, in Iran, this material was needed, and under the
12 Iranian law, this was not illegal, I did it.

13 THE COURT: You're telling me it was not illegal
14 under Iranian law?

15 THE DEFENDANT: Yes, that's correct.

16 THE COURT: But you understood that it was in
17 violation of United States law; is that correct?

18 THE DEFENDANT: Yes, your Honor.

19 MR. NEUMAN: Your Honor, may I have just a moment
20 with my client.

21 THE COURT: Sure.

22 (Defense counsel confers with defendant)

23 MR. NEUMAN: Thank you, your Honor.

24 THE COURT: Mr. Pourghannad, I ask you again: Did
25 you commit these acts knowingly and willfully?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: And I think you just told me that you
3 knew it was against United States law to do what you were
4 doing?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Is there anything else which either
7 counsel believes the Court needs to elicit from Mr. Pourghannad
8 before making the recommendation contemplated by Rule 11?

9 Ms. Keenan.

10 MS. KEENAN: No, your Honor.

11 THE COURT: Mr. Neuman.

12 MR. NEUMAN: No, your Honor.

13 MS. KEENAN: Your Honor, may I just make a proffer
14 for the record as to venue, that there is a recorded phone call
15 in which the defendant participated stating that the carbon
16 fiber would be shipped from a Manhattan port.

17 THE COURT: You can make that proffer. I think the
18 allocution is adequate as to venue.

19 MS. KEENAN: Okay.

20 THE COURT: Mr. Neuman, do you know of any reason why
21 the Court should not recommend acceptance of your client's plea
22 of guilty?

23 MR. NEUMAN: No, your Honor.

24 THE COURT: Ms. Keenan, do you know of any reason why
25 I shouldn't recommend acceptance of this plea?

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1 MS. KEENAN: No, your Honor.

2 THE COURT: Mr. Pourghannad, in light of everything
3 that's been said here today, is it still your wish to plead
4 guilty to Count One of this indictment?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: All right. Upon this allocution, I find
7 that Behzad Pourghannad is fully competent and capable of
8 entering an informed plea. The plea is knowing and voluntary
9 and is supported by an independent factual basis for each and
10 every element of the crime charged.

11 Accordingly, I respectfully report and recommend to
12 Judge Briccetti that this plea be accepted and that
13 Mr. Pourghannad be adjudged guilty of the offense charged in
14 Count One of the felony indictment.

15 I direct the probation department to conduct a
16 presentence investigation.

17 Mr. Pourghannad, this is important. Arrangements
18 will be made for you to be interviewed by a probation officer.
19 I'm sure Mr. Neuman will assist you in preparing for that
20 interview. And you are entitled to have your attorney present
21 during the interview, if you wish.

22 You must be fully honest and truthful during that
23 interview because if Judge Briccetti learns that you have
24 provided false, incomplete or misleading information, that
25 could be held against you at the time of sentencing.

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1 Do you understand?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Ms. Keenan, the case summary should go to
4 probation within 14 days.

5 Mr. Neuman, you should contact probation and make
6 your client available for interview during that same interval.

7 I direct the reporter to provide a transcript of
8 these proceedings within 30 days setting forth my report and
9 recommendation to Judge Briccetti. That transcript should come
10 to me for review.

11 Ms. Keenan, this defendant is under an order of
12 detention?

13 MS. KEENAN: He is detained on consent, your Honor.

14 THE COURT: All right. That will continue.

15 We'll adjourn for sentencing.

16 Mr. Cangelosi, do we have a date and time?

17 THE DEPUTY CLERK: December 13th, 2019, at 9:30 a.m.

18 THE COURT: Counsel should contact Judge Briccetti's
19 chambers as that date approaches to confirm the date and time
20 of sentencing.

21 Yes, Mr. Neuman.

22 MR. NEUMAN: Judge, I just want to put on the record
23 that I will be making a request to Judge Briccetti for an
24 expedited sentencing, to change the date. That's not for your
25 consideration. I'm just mentioning it on the record.

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1 THE COURT: You should make that application to
2 Judge Briccetti.

3 Ms. Keenan, anything else from the government?

4 MS. KEENAN: No, your Honor.

5 THE COURT: Mr. Neuman, anything else from you?

6 MR. NEUMAN: No, your Honor.

7 THE COURT: Very well. Then the defendant is
8 remanded. We'll stand in recess.

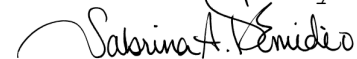
9 Good luck to you, Mr. Pourghannad.

10 THE DEPUTY CLERK: All rise. Court is in recess.

11 THE DEFENDANT: Thank you, your Honor.

12 - - -

13 Certified to be a true and correct
14 transcript of the stenographic record
15 to the best of my ability.

16 

17 U.S. District Court
18 Official Court Reporter